

# **EXHIBIT “C”**

**EXHIBIT “C”**

Electronically Filed  
11/28/2017 10:26 AM  
Steven D. Grierson  
CLERK OF THE COURT

*Steven D. Grierson*

1 TREVOR L. ATKIN  
2 Nevada Bar No. 3133  
3 ATKIN WINNER & SHERROD  
4 1117 South Rancho Drive  
5 Las Vegas, Nevada 89102  
Phone (702) 243-7000  
Facsimile (702) 243-7059  
[tatkin@awslawyers.com](mailto:tatkin@awslawyers.com)  
*Attorneys for Defendants*

6 EIGHTH JUDICIAL DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 IRENE AVILA-LOPEZ,

9 Plaintiff,

10 vs.

11 JAMES PAUL MOORE CHAVARRIA;  
12 JHM EXPRESS; DOES I through X; ROE  
13 CORPORATIONS I through X, inclusive,

14 Defendant.

CASE NO.: A-17-763583-C  
DEPT. NO.: 14

**DEFENDANTS' ANSWER TO  
COMPLAINT**

15 COME NOW Defendants, JAMES PAUL MOORE CHAVARRIA and JHM EXPRESS,  
16 by and through their attorneys, ATKIN WINNER & SHERROD, and for their Answer to  
17 Plaintiff's Complaint on file herein, admit, deny and allege as follows:

18 1. Answering Paragraphs 1 and 5 of the Complaint on file herein, Defendants state  
19 they are without sufficient knowledge or information upon which to base a belief as to the truth  
20 of the allegations contained in said Paragraphs, and upon said ground, deny each and every  
21 allegation contained therein. Defendants will hold Plaintiff to all proofs.

22 2. Answering Paragraphs 2 and 4 of the Complaint on file herein, Defendants admit  
23 each and every allegation contained therein.

24 3. Answering Paragraph 3 of the Complaint on file herein, Defendant JHM  
25 EXPRESS admits being a GA Company and employing Defendant JAMES PAUL MOORE  
26 CHAVARRIA at the time of the accident; however, denies doing business in Clark County,  
27 Nevada other than on an occasional basis.

ATKIN WINNER & SHERROD  
A NEVADA LAW FIRM

4. Answering Paragraph 6 of the Complaint on file herein, these answering Defendants admit that on July 24, 2017 both Plaintiff and JAMES PAUL MOORE CHAVARRIA were traveling northbound on US 95. Defendants deny the remainder of the allegations, as it was the Plaintiff who suddenly slammed on her brakes and entered the Defendants' travel lane, which resulted in the complained of collision.

## **FIRST CAUSE OF ACTION**

**(NEGLIGENCE)**

8       5. Answering Paragraph 7 of the Complaint on file herein, these answering  
9 Defendants allege their answers in Paragraphs 1 through 6 above as if fully set forth at this point  
10 and incorporate them herein by reference.

11       6. Answering Paragraphs 8, 9, 10, 11, 12, 13, 14 and 15 of the Complaint on file  
12 herein, these answering Defendants deny each and every allegation contained therein.  
13 Defendants will hold Plaintiff to all proofs.

## **SECOND CAUSE OF ACTION**

*(NEGLIGENCE PER SE)*

16       7. Answering Paragraph 16 of the Complaint on file herein, these answering  
17 Defendants allege their answers in Paragraphs 1 through 15 above as if fully set forth at this  
18 point and incorporate them herein by reference.

19       8. Answering Paragraphs 17, 18, 19, 20, 21, 22 and 23 of the Complaint on file  
20 herein, these answering Defendants deny each and every allegation contained therein.  
21 Defendants will hold Plaintiff to all proofs.

### **THIRD CAUSE OF ACTION**

**(RESPONDEAT SUPERIOR)**

24       9. Answering Paragraph 24 of the Complaint on file herein, these answering  
25 Defendants allege their answers in Paragraphs 1 through 23 above as if fully set forth at this  
26 point and incorporate them herein by reference.

27       10. Answering Paragraph 25 of the Complaint on file herein, these answering  
28 Defendants admit each and every allegation contained therein.

1       11. Answering Paragraph 26 of the Complaint on file herein, these answering  
2 Defendants admit that JAMES PAUL MOORE CHAVARRIA was an employee of JHM  
3 EXPRESS and was in the course and scope of his employment at the time of the accident;  
4 however, they deny any negligence and thus are not liable.

5       8. Answering Paragraphs 27, 28, 29, 30 and 31 of the Complaint on file herein, these  
6 answering Defendants deny each and every allegation contained therein. Defendants will hold  
7 Plaintiff to all proofs.

**THIRD CAUSE OF ACTION**  
*(RESPONDEAT SUPERIOR)*

10       9. Answering Paragraph 24 of the Complaint on file herein, these answering  
11 Defendants allege their answers in Paragraphs 1 through 23 above as if fully set forth at this  
12 point and incorporate them herein by reference.

13       10. Answering Paragraph 25 of the Complaint on file herein, these answering  
14 Defendants admit each and every allegation contained therein.

15        11. Answering Paragraph 26 of the Complaint on file herein, these answering  
16 Defendants admit that JAMES PAUL MOORE CHAVARRIA was an employee of JHM  
17 EXPRESS and was in the course and scope of his employment at the time of the accident;  
18 however, they deny any negligence and thus are not liable.

19       12. Answering Paragraphs 27, 28, 29, 30 and 31 of the Complaint on file herein, these  
20 answering Defendants deny each and every allegation contained therein. Defendants will hold  
21 Plaintiff to all proofs.

## FOURTH CAUSE OF ACTION

24       13. Answering Paragraph 32 of the Complaint on file herein, these answering  
25 Defendants allege their answers in Paragraphs 1 through 31 above as if fully set forth at this  
26 point and incorporate them herein by reference.

27       14. Answering Paragraphs 33 and 34 of the Complaint on file herein, these answering  
28 Defendants admit each and every allegation contained therein.

1       15. Answering Paragraphs 35, 36, 37, 38, 39, 40 and 41 of the Complaint on file  
2 herein, these answering Defendants deny each and every allegation contained therein.  
3 Defendants will hold Plaintiff to all proofs.

## **AFFIRMATIVE DEFENSES**

## **FIRST AFFIRMATIVE DEFENSE**

Defendants allege that the collision alleged in the Complaint, and the alleged damages and injuries, if any, to Plaintiff, were proximately caused or contributed to by Plaintiff's own negligence and such negligence was greater than any of the Defendants' negligence.

## **SECOND AFFIRMATIVE DEFENSE**

Defendants allege that at the time and place alleged in the Complaint, Plaintiff did not exercise ordinary care, caution or prudence in the premises to avoid said accident and the resulting injuries, if any, complained of were directly and proximately contributed to and caused by the fault, carelessness and negligence of the Plaintiff.

### **THIRD AFFIRMATIVE DEFENSE**

Defendants allege that the allegations contained in the Plaintiff's Complaint fail to state a cause of action against Defendant upon which relief can be granted.

#### **FOURTH AFFIRMATIVE DEFENSE**

That it has been necessary for Defendants to employ the services of an attorney to defend this action, and a reasonable sum should be allowed Defendants as and for attorney's fees, together with their costs expended in this action.

## FIFTH AFFIRMATIVE DEFENSE

Pursuant to Nevada Rules of Civil Practice 11, as amended, all possible affirmatives defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants' Answer and, therefore, Defendants reserve the right to amend this Answer to allege additional affirmative defenses if subsequent investigation

1 warrants.

2 NOTE: Some or all of the affirmative defenses set forth above may have been pled for  
3 the purposes of non-waiver pending discovery. Other affirmative defenses may be added as  
4 discovery continues.

5 DATED this 28th day of November, 2017.  
6

7 ATKIN WINNER & SHERROD  
8  
9

10 /s/ Trevor L. Atkin \_\_\_\_\_  
11 Trevor L. Atkin  
12 Nevada Bar No. 3133  
13 1117 South Rancho Drive  
14 Las Vegas, Nevada 89102  
15 *Attorneys for Defendants*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ATKIN WINNER & SHERROD  
A NEVADA LAW FIRM

**CERTIFICATE OF SERVICE**

I certify that on this 28<sup>th</sup> day of November, 2017, the foregoing **DEFENDANT'S ANSWER TO COMPLAINT** was served on the following by [ ] Electronic Service pursuant to NEFR 9 [x] Electronic Filing and Service pursuant to NEFR 9 [ ] hand delivery [ ] overnight delivery [ ] fax [ ] fax and mail [ ] mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

Ralph E. Porter  
Ralph Porter & Associates, PC  
525 S. Ninth Street  
Las Vegas, NV 89101  
*Attorneys for Plaintiff*

/s/ Natalie Ayers  
An employee of ATKIN WINNER & SHERROD

ATKIN WINNER & SHERROD LTD  
A NEVADA LAW FIRM